

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MYRON CORP.,

Plaintiff,

v.

HOLLAND USA, INC. D/B/A
AMSTERDAM PRINTING,

Defendant.

Civil Action
No. 07-6877 (PAC)

**DECLARATION OF RICHARD P. JACOBSON
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, Richard P. Jacobson, declares under penalty of perjury as follows:

1. I am a member of the law firm of Colucci & Umans, counsel for plaintiff, Myron Corp. ("Myron"). I submit this declaration in support of Myron's motion for a preliminary injunction and to place before the Court true and accurate copies of pertinent documents and exhibits for the preliminary injunction hearing on September 27, 2007.

2. Exhibit 11 is a true and accurate copy of United States Trademark Reg. No. 2,297,367 of the mark TOGETHER WE ACHIEVE THE EXTRAORDINARY and printout from the United States Patent and Trademark Office Trademark Electronic Search System regarding the subject registration. The aforesaid registration issued on December 7, 1999, for calendars, diaries and metal key tags and is valid, subsisting, in full force and effect, and incontestable.

3. Exhibit 12 is a true and accurate printout from the United States Patent and Trademark Office Trademark Electronic Search System for United States Trademark Application Serial No. 77/233,410 of the mark TEAMWORK, filed July 19, 2007, for metal key tags first used in commerce on September 30, 1996 and calendars, diaries and notepads first used in commerce on July 31, 1995.

4. Exhibit 13 is a true and accurate printout from the United States Patent and Trademark Office Trademark Electronic Search System for United States Trademark Application Serial No. 77/242,225 of the mark TEAMWORK TOGETHER WE ACHIEVE THE EXTRAORDINARY, filed July 30, 2007 for metal key tags first used in commerce on September 30, 1996 and calendars, diaries and notepads first used in commerce on July 31, 1995.

5. Exhibit 14 is a true and accurate printout from the United States Patent and Trademark Office Trademark Electronic Search System for United States Trademark Application Serial No. 77/242,260 of the mark TEAMWORK TOGETHER WE ACHIEVE THE EXTRAORDINARY, filed July 30, 2007 for multi-function key rings, knives, calculators and carabiners, flashlights, clocks, writing instruments and mugs.

6. Exhibit 15 is a true and accurate copy of Deposition Exhibit 18, Defendant's Responses to Plaintiff's First Request for Production of Documents

7. Exhibit 16 is a true and accurate copy of Deposition Exhibit 19, a Myron pocket calendar bearing Myron's Trade Dress.

8. Exhibit 17 is a true and accurate copy of Deposition Exhibit 20, an Amsterdam pocket calendar bearing the words TEAMWORK TOGETHER WE CAN ACHIEVE THE IMPOSSIBLE and an illustration of two silhouetted mountain climbers.

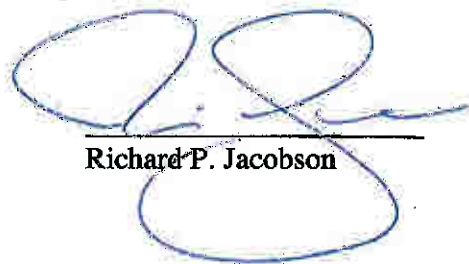
9. Exhibit 18 is a true and accurate copy of Deposition Exhibit 21, a printout of email correspondence from Jing Mahler to Mallory Richstone, bearing Bates Nos. D000050-D000052.

10. Exhibit 19 is a true and accurate copy of Deposition Exhibit 22, a printout of email correspondence from Jing Mahler to Mallory Richstone, bearing Bates Nos. D000105-D000110.

11. Exhibit 20 is a true and accurate copy of Deposition Exhibit 27, printouts from the Union Pen Company displaying "Teamwork" dated products.

12. Exhibit 21 is a true and accurate copy of the deposition transcript of Kevin Kirbey, President of Holland USA, Inc., which deposition was conducted on September 19, 2007.

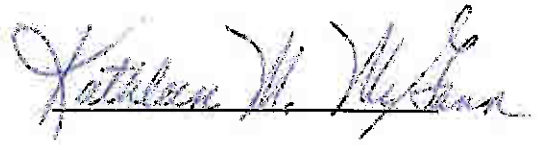
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 24th day of September, 2007.



Richard P. Jacobson

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing "Declaration of Richard P. Jacobson in Support of Plaintiff's Motion for Preliminary Injunction" has been served by email on defendant's attorney, Mario Aieta, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, on this 24th day of September, 2007.

A handwritten signature in blue ink, reading "Kathleen M. McLean", is written over a horizontal line.

EXHIBIT

11

Int. Cls.: 6, 9, 14, 16, 21, 25 and 28

**Prior U.S. Cls.: 2, 5, 12, 13, 14, 21, 22, 23, 25, 26,
27, 28, 29, 30, 33, 36, 37, 38, 39, 40 and 50**

Reg. No. 2,297,367

United States Patent and Trademark Office

Registered Dec. 7, 1999

**TRADEMARK
PRINCIPAL REGISTER**

TOGETHER WE ACHIEVE THE EXTRAORDINARY

**MYRON MANUFACTURING CORPORATION
(NEW JERSEY CORPORATION)
205 MAYWOOD AVENUE
MAYWOOD, NJ 07607**

**FOR: METAL KEY TAGS,, IN CLASS 6 (U.S.
CLS. 2, 12, 13, 14, 23, 25 AND 50).**

**FIRST USE 9-0-1996; IN COMMERCE
9-0-1996.**

**FOR: MOUSE PADS, IN CLASS 9 (U.S. CLS.
21, 23, 26, 36 AND 38).**

**FIRST USE 6-0-1995; IN COMMERCE
6-0-1995.**

**FOR: LAPEL PINS AND DESK CLOCKS, IN
CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).**

**FIRST USE 9-0-1994; IN COMMERCE
9-0-1994.**

**FOR: LETTER OPENERS, PENS, POSTERS,
GREETING CARDS, PRESENTATION FOLD-
ERS, CALENDARS, DIARIES, DESKTOP OR-**

**GANIZERS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23,
29, 37, 38 AND 50).**

**FIRST USE 7-0-1995; IN COMMERCE
7-0-1995.**

**FOR: MUGS, IN CLASS 21 (U.S. CLS. 2, 13, 23,
29, 30, 33, 40 AND 50).**

**FIRST USE 8-0-1996; IN COMMERCE
8-0-1996.**

**FOR: BASEBALL-STYLE CAPS, IN CLASS 25
(U.S. CLS. 22 AND 39).**

**FIRST USE 1-0-1997; IN COMMERCE
1-0-1997.**

**FOR: GOLF TEES AND GOLF BALL MARK-
ERS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).**

**FIRST USE 1-0-1997; IN COMMERCE
1-0-1997.**

SER. NO. 75-389,191, FILED 11-12-1997.

**ANITA ODOVICH, EXAMINING ATTOR-
NEY**

Int. Cls.: 6, 9, 14, 16, 21, 25 and 28

Prior U.S. Cls.: 2, 5, 12, 13, 14, 21, 22, 23, 25, 26,
27, 28, 29, 30, 33, 36, 37, 38, 39, 40 and 50

Reg. No. 2,297,367

United States Patent and Trademark Office

Registered Dec. 7, 1999

**TRADEMARK
PRINCIPAL REGISTER**

TOGETHER WE ACHIEVE THE EXTRAORDINARY

MYRON MANUFACTURING CORPORATION
(NEW JERSEY CORPORATION)
205 MAYWOOD AVENUE
MAYWOOD, NJ 07607

FOR: METAL KEY TAGS, IN CLASS 6 (U.S.
CLS. 2, 12, 13, 14, 23, 25 AND 50).

FIRST USE 9-0-1996; IN COMMERCE
9-0-1996.

FOR: MOUSE PADS, IN CLASS 9 (U.S. CLS.
21, 23, 26, 36 AND 38).

FIRST USE 6-0-1995; IN COMMERCE
6-0-1995.

FOR: LAPEL PINS AND DESK CLOCKS, IN
CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 9-0-1994; IN COMMERCE
9-0-1994.

FOR: LETTER OPENERS, PENS, POSTERS,
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GANIZERS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23,
29, 37, 38 AND 50).

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FOR: MUGS, IN CLASS 21 (U.S. CLS. 2, 13, 23,
29, 30, 33, 40 AND 50).

FIRST USE 8-0-1996; IN COMMERCE
8-0-1996.

FOR: BASEBALL-STYLE CAPS, IN CLASS 25
(U.S. CLS. 22 AND 39).

FIRST USE 1-0-1997; IN COMMERCE
1-0-1997.

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Typed Drawing

Word Mark TOGETHER WE ACHIEVE THE EXTRAORDINARY

Goods and Services IC 006. US 002 012 013 014 023 025 050. G & S: metal key tags,. FIRST USE: 19960900. FIRST USE IN COMMERCE: 19960900

(CANCELLED) IC 009. US 021 023 026 036 038. G & S: [mouse pads]. FIRST USE: 19950600. FIRST USE IN COMMERCE: 19950600

(CANCELLED) IC 014. US 002 027 028 050. G & S: [lapel pins and desk clocks]. FIRST USE: 19940900. FIRST USE IN COMMERCE: 19940900

IC 016. US 002 005 022 023 029 037 038 050. G & S: [letter openers, pens, posters, greeting cards, presentation folders,] calendars, diaries, [desktop organizers]. FIRST USE: 19950700. FIRST USE IN COMMERCE: 19950700

(CANCELLED) IC 021. US 002 013 023 029 030 033 040 050. G & S: [mugs]. FIRST USE: 19960800. FIRST USE IN COMMERCE: 19960800

(CANCELLED) IC 025. US 022 039. G & S: [baseball-style caps]. FIRST USE: 19970100. FIRST USE IN COMMERCE: 19970100

(CANCELLED) IC 028. US 022 023 038 050. G & S: [golf tees and golf ball markers]. FIRST USE: 19970100. FIRST USE IN COMMERCE: 19970100

Mark Drawing Code (1) TYPED DRAWING**Serial Number** 75389191**Filing Date** November 12, 1997**Current Filing Basis** 1A**Original Filing Basis** 1AJacobson Decl., Ex. 11
Page 3 of 4

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Published for Opposition September 14, 1999
Change in Registration CHANGE IN REGISTRATION HAS OCCURRED
Registration Number 2297367
Registration Date December 7, 1999
Owner (REGISTRANT) MYRON MANUFACTURING CORPORATION CORPORATION NEW JERSEY
 205 Maywood Avenue Maywood NEW JERSEY 07607
 (LAST LISTED OWNER) MYRON CORP. CORPORATION NEW JERSEY 205 MAYWOOD
 AVENUE MAYWOOD NEW JERSEY 07607
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record FRANK J. COLUCCI
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. PARTIAL SECT 8 (6-YR).
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TEAMWORK

Word Mark TEAMWORK

Goods and Services IC 006. US 002 012 013 014 023 025 050. G & S: metal key tags. FIRST USE: 19960930. FIRST USE IN COMMERCE: 19960930

IC 016. US 002 005 022 023 029 037 038 050. G & S: calendars, diaries and notepads. FIRST USE: 19950731. FIRST USE IN COMMERCE: 19950731

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77233410

Filing Date July 19, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Myron Corp. CORPORATION NEW JERSEY 205 Maywood Avenue Maywood NEW JERSEY 07607

Attorney of Record Frank J. Colucci

Type of Mark TRADEMARK

Register PRINCIPAL

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Jacobson Decl., Ex. 12
Page 2 of 2

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13

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**TEAMWORK TOGETHER WE
ACHIEVE THE EXTRAORDINARY**

Word Mark TEAMWORK TOGETHER WE ACHIEVE THE EXTRAORDINARY

Goods and Services IC 006. US 002 012 013 014 023 025 050. G & S: metal key tags. FIRST USE: 19960930. FIRST USE IN COMMERCE: 19960930

IC 016. US 002 005 022 023 029 037 038 050. G & S: calendars, diaries and notepads. FIRST USE: 19950731. FIRST USE IN COMMERCE: 19950731

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77242225

Filing Date July 30, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Myron Corp. CORPORATION NEW JERSEY 205 Maywood Avenue Maywood NEW JERSEY 07607

Attorney of Record Frank J. Colucci

Prior Registrations 2297367

Type of Mark TRADEMARK

Register PRINCIPAL

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**TEAMWORK TOGETHER WE
ACHIEVE THE EXTRAORDINARY**

Word Mark	TEAMWORK TOGETHER WE ACHIEVE THE EXTRAORDINARY
Goods and Services	IC 006. US 002 012 013 014 023 025 050. G & S: multi-function key rings IC 008. US 023 028 044. G & S: knives IC 009. US 021 023 026 036 038. G & S: calculators and carabiners IC 011. US 013 021 023 031 034. G & S: flashlights IC 014. US 002 027 028 050. G & S: clocks IC 016. US 002 005 022 023 029 037 038 050. G & S: writing instruments IC 021. US 002 013 023 029 030 033 040 050. G & S: mugs
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77242260
Filing Date	July 30, 2007
Current Filing Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Myron Corp. CORPORATION NEW JERSEY 205 Maywood Avenue Maywood NEW JERSEY 07607
Attorney of Record	Frank J. Colucci
Prior Registrations	2297367
Type of Mark	TRADEMARK
Register	PRINCIPAL

Jacobson Decl., Ex. 14
Page 1 of 2

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15

Mario Aieta (MA 2228)
Betsy C. Judelson (BJ 1107)
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866 United Nations Plaza
New York, New York 10017
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Attorneys for Defendant Holland USA d/b/a Amsterdam Printing

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----*		
MYRON CORP.,	:	
	:	
Plaintiff	:	Case No. 07-CV-6877 (PAC)
v.	:	
	:	
HOLLAND USA, INC D/B/A AMSTERDAM	:	
PRINTING,	:	
Defendants.	:	
-----*		

DEFENDANT'S RESPONSES TO PLAINTIFF'S FIRST
REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant Holland USA, Inc. d/b/a Amsterdam Printing response to Plaintiff's First Requests for Production of Documents as follows.

GENERAL STATEMENTS AND OBJECTIONS

Defendants respond and object to each document request propounded by Plaintiff on the following grounds, which are incorporated into each of the following responses.

A. Defendants make these objections and responses without waiving any right or privilege to object to the introduction in evidence, in this or any other action or proceeding, of any document produced hereunder, upon any grounds.

(8616498).11



B. Defendants reserve the right to supplement these responses at a future date if it deems that to be appropriate.

C. All documents to be produced as indicated below are produced pursuant to Defendants' exclusive interpretation of each document request. To the extent that any other party may rely upon any other interpretation, Defendants specifically reserve the right to supplement these responses and objections and/or produce additional or different documents at any time after Defendants have been notified of such different interpretation.

D. Defendants object to each request to the extent that the documents requested are protected from discovery by the attorney-client, work product, tax return, and/or trade secret and confidential business information privileges.

E. The inadvertent production of any document subject to any applicable privilege or doctrine, including but not limited to the attorney-client privilege and work-product doctrine, is not intended to be, and shall not operate as, a waiver of any such privilege or doctrine, in whole or in part; nor is any such inadvertent production intended to be, nor shall it constitute, a waiver of the right to object to any use of such document.

F. Documents described below which are confidential or proprietary will be produced upon the entry of a protective order satisfactory to Defendants insuring the confidentiality and proper use of such documents and the information they contain.

G. All documents to be produced as indicated below will be made available at a mutually convenient time for inspection and copying at Defendants' counsel's office, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, NY 10169.

RESPONSES TO DOCUMENT REQUESTS

Request No. 1: All documents which refer or relate to or comment on defendant's corporate structure and/or affiliates.

Response No. 1: Defendant objects to this request to the extent that it seeks "all documents" which refer or relate to defendant's corporate structure and/or affiliates for the reason that the discovery sought is unreasonably cumulative or duplicative, and the burden or expense of the proposed discovery outweighs its likely benefit. Defendant will produce documents sufficient to evidence the ownership of defendant Holland USA, Inc.

Request No. 2: All documents which refer or relate to or comment on the creation, development, design and production of Defendant's TEAMWORK products.

Response No. 2: Defendant will produce documents responsive to this request. Documents produced herewith are identified as D000001-D000164; D000187-D000191.

Request No. 3: All documents or things which refer or relate to or comment on the idea, conception, development or creation of Defendant's TEAMWORK products, including but not limited to all drawings, photographs, sketches, artwork, other illustrations, written materials or production samples prepared, used or referred to by or for defendant.

Response No. 3: Defendant will produce documents responsive to this request. Documents produced herewith are identified as D000001-D000164; D000187-D000191.

Request No. 4: All documents which refer or relate to or comment on any search conducted for or on behalf of defendant with respect to any of the words or features of the trade dress of Defendant's TEAMWORK products.

Response No. 4: Defendant will produce documents responsive to this request.

Request No. 5: All documents which refer or relate to or comment on defendant's knowledge of plaintiff and its TEAMWORK dated products, at, prior or subsequent to the time defendant designed, selected, adopted or began manufacture and/or

sale of Defendant's TEAMWORK products.

Response No. 5: Defendant will produce documents responsive to this request.

Request No. 6: All documents which refer or relate to or comment on the channels of trade through which defendant advertises and sells Defendant's TEAMWORK products.

Response No. 6: Defendant object to this request to the extent that it seeks "all documents" which refer or relate to the relevant channels of trade for the reason that the discovery sought is unreasonably cumulative or duplicative, and the burden or expense of the proposed discovery outweighs its likely benefit. Defendants will produce documents sufficient to evidence the channels of trade through which defendant advertises and sells Defendant's TEAMWORK products.

Request No. 7: All documents which refer or relate to or comment on the sales of Defendant's TEAMWORK products by and/or for defendant.

Response No. 7: Defendant object to this request to the extent that it seeks "all documents" which refer or relate to defendant's sales for the reason that the discovery sought is unreasonably cumulative or duplicative, and the burden or expense of the proposed discovery outweighs its likely benefit. Defendant further objects to this request because the information sought is not relevant to the issues to be resolved on Plaintiff's motion for a preliminary injunction.

Request No. 8: All documents which refer or relate to or comment on the offering for sale, advertising and/or promotion of Defendant's TEAMWORK products by and/or for defendant.

Response No. 8: Defendant will produce documents responsive to this request. Documents produced herewith are identified as D000165-D000167; D000193; D000195-D000306.

Request No. 9: All documents which refer or relate to or comment on defendant's advertising and/or promotional expenditures with respect to Defendant's TEAMWORK products from the date of their first offering to the present.

Response No. 9: Defendant object to this request to the extent that it seeks "all documents" which refer or relate to defendant's advertising or promotional expenditures for the TEAMWORK products for the reason that the discovery sought is unreasonably cumulative or duplicative, and the burden or expense of the proposed discovery outweighs its likely benefit. Defendant further objects to this request because the information sought is not relevant to the issues to be resolved on Plaintiff's motion for a preliminary injunction.

Request No. 10: A sample of each different advertisement and item of a promotional nature prepared, printed or disseminated by or on behalf of defendant in which Defendant's TEAMWORK products appeared and/or appear from the date of defendant's first offering for sale of such products to the present.

Response No. 10: Defendant object to this request to the extent that it seeks "a sample of each different advertisement and item of a promotional nature prepared, printed or disseminated by or on behalf of defendant" for the reason that the discovery sought is unreasonably cumulative or duplicative, and the burden or expense of the proposed discovery outweighs its likely benefit. Defendant will produce documents responsive to this request. Documents produced herewith are identified as D000165-D000167; D000195-D000196.

Request No. 11: All documents which refer or relate to or comment on the distribution of samples of Defendant's TEAMWORK products to prospective customers.

Response No. 11: Defendant will produce documents responsive to this request. Documents produced herewith are identified as D000165-D000167; D000192.

Request No. 12: All documents which refer or relate to or comment on the percent

of defendant's orders for Defendant's TEAMWORK products that are from new customers as opposed to customers that previously ordered dated products from defendant.

Response No. 12: Defendant object to this request because the information sought is not relevant to the issues to be resolved on Plaintiff's motion for a preliminary injunction.

Request No. 13: All documents which refer or relate to or comment on the pricing of Defendant's TEAMWORK products.

Response No. 13: Defendant objects to this request to the extent that it seeks "all documents" which refer or relate to defendant's pricing of the TEAMWORK products for the reason that the discovery sought is unreasonably cumulative or duplicative, and the burden or expense of the proposed discovery outweighs its likely benefit. Defendant further objects to this request because the information sought is not relevant to the issues to be resolved on Plaintiff's motion for a preliminary injunction.

Request No. 14: Samples of any and all third party products on which defendant proposes to rely in defense of plaintiff's trade dress claims.

Response No. 14: Defendant will produce documents responsive to this request.

Request No. 15: All documents which refer or relate to or comment on defendant's yield rate on sales generated from its distribution of samples of Defendant's TEAMWORK products.

Response No. 15: Defendant objects to this request because the information sought is not relevant to the issues to be resolved on Plaintiff's motion for a preliminary injunction and because the information sought is highly proprietary.

Request No. 16: All documents which refer or relate in any way to any and all statements and/or opinions of any person, other than an attorney rendering legal advice to defendant, regarding any of the issues involved in this civil action.

Response No. 16: Defendant objects to this request to the extent that it seeks "all documents" which refer or relate to statements or opinions regarding "any of the issues involved in this civil action" for the reason that the discovery sought is unreasonably cumulative or duplicative, and the burden or expense of the proposed discovery outweighs its likely benefit.

Request No. 17: Copies of all documents, other than those produced in response to any of the foregoing requests, upon which defendant intends to rely in connection with this civil action.

Response No. 17: Defendant objects to this request because it is premature and because plaintiff is not entitled to unilateral pre-hearing disclosure on its motion for a preliminary injunction. Defendant will disclose its hearing exhibits when required to do so by the court or at a time mutually agreed to by the parties.

Dated: September 18, 2007
New York, New York

Respectfully submitted,
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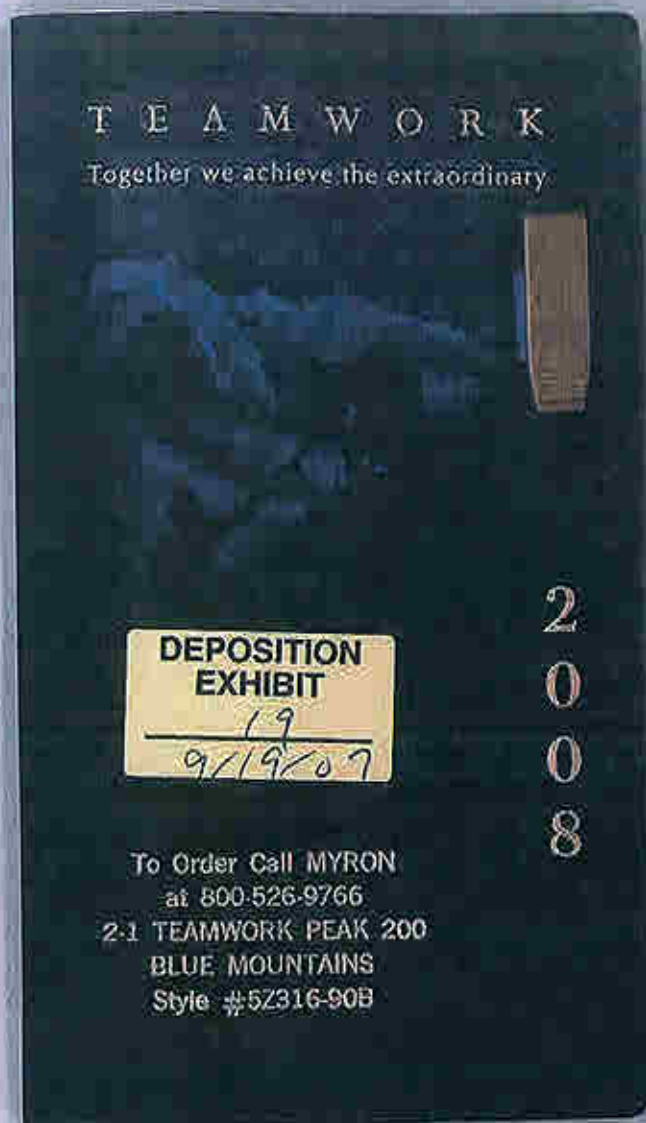
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16



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17

